

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32 (2) (b)
Description of the case.

Writ Petition No. 318 of 2001 (S/B)

Date of decision 26th July, 2004

For the approval of:-

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice P.C. Verma.

- Whether the order/judgment should be sent to reporters for reporting? ()

- Whether the reporters be allowed to see the judgment? (yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 318 of 2001 (S/B)

Rajesh Kumar, S/o Sri Chet Ram,
R/o Pandit Bari, Badri Mohalla,
Prem Nagar, District Dehradun. Petitioner

Versus

The Central Administrative Tribunal,
Allahabad Bench & others Respondents

Mr. P.C. Jhingan, learned counsel for the petitioner.
Ms. Anjali, learned Addl. Standing Counsel (Central Government).

**Coram: Hon'ble V.S. Sirpurkar, C.J.,
 Hon'ble P.C. Verma, J.**

Dated:- July 26, 2004

(Per Hon'ble the Chief Justice)

This writ petition is by a Chaukidar, who was engaged as such in the Indian Military Academy, Dehradun. He was found to be sleeping while on duty. Therefore, a regular enquiry was held against him and the Commandant, considering his past record, had awarded him the punishment of removal.

It is found from the facts that a full-fledged enquiry was done, wherein the charge of sleeping on the duty was proved to the hilt. Regular opportunities were given to him and it was found that his defence was completely unacceptable. The Commandant also found that in mere three years of his service, he was once censured and also once punished for the similar kind of misconduct. Considering everything, the concerned petitioner was removed from service. He filed an original application against that before the Central Administrative Tribunal and the Central Administrative Tribunal took the view that there was no denial of natural justice nor any breach of any rules. Ultimately, the Tribunal dismissed the original application. The order of the Tribunal is in challenge before us in this writ petition.

Learned counsel for the petitioner points out that there has been a considerable delay in as much as 13 years have elapsed and during these 13 years, the petitioner has been without any job or without any occupation and as such, a lenient view should be taken by us, at least in the matter of punishment. Learned counsel was fair enough to submit that since we cannot go into the questions of fact and the findings arrived at by the Enquiry Officer, he was restricting himself to the question of punishment alone. Learned counsel for the petitioner relied on the judgment of this court dated 25.09.2002 by A.A. Desai, C.J. and Irshad Hussain, J. in writ petition No. 2427 (S/S) of 2001, wherein the Division Bench has taken a lenient view in respect of the sentence. However, we find that in that case, there was no objection raised and the order was passed by the consent of the parties. The learned Judges said:

“In view of this by way of equity with consent of parties, we direct the respondent to reinstate the petitioner without back wages.”

Such is certainly not the situation here. In that view, the ruling is not applicable before us to the facts of the case. We do not see any reason to take any lenient view particularly because the record of this petitioner has been black and blue in the sense that in last three years of his service, he suffered three punishments. If this is the state of affairs in respect of a Chaukidar in Indian Military Academy, then certainly a strict view will have to be taken.

We do not find anything wrong in the order of the Central Administration Tribunal. We confirm the same. The writ petition has no merit and it is dismissed. No order as to costs.

(P.C. Verma, J.)

(V.S. Sirpurkar, C.J.)

Dt. 26.07.2004

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